SACRAMENTO RIVER CONSERVATION AREA FORUM
PROGRAMMATIC SAFE HARBOR AGREEMENT

1. INTRODUCTION

This programmatic Safe Harbor Agreement (Agreement) and Voluntary Local Program is entered into as of December 21 , 2009 between the Sacramento River Conservation Area Forum (Program Administrator), the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department)[1]; hereinafter collectively called the "Parties." The purposes of this Agreement are to promote restoration activities for the Covered Species (Table 1) and assure non-Federal, participating landowners (Cooperators) that no additional regulatory burdens will result from management activities designed to benefit Covered Species within the Sacramento River Conservation Area (SRCA) in Shasta, Tehama, Butte, Glenn, Colusa, Yolo, and Sutter Counties, California. It is the goal of the Parties to accomplish restoration activities without negatively affecting routine farming activities.

Table 1: List of Covered Species and State and Federal Status.

Species Name	**Status**
Invertebrates	
Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)	Federal: Threatened State: None
Amphibians/Reptiles	
Giant garter snake (*Thamnophis gigas*)	Federal: Threatened State: Threatened
Western pond turtle (*Actinemys marmorata*)	Federal: None State: Species of Concern
Birds	
Swainson' hawk (*Buteo swainsoni*)	Federal: None State: Threatened
Bank swallow (*Riparia riparia*)	Federal: None State: Threatened
Willow flycatcher (*Empidonax trailii*),	Federal: None State: Threatened
Western yellow-billed cuckoo[2] (*Coccyzus americanus occidentalis*)	Federal: Candidate State: Endangered

Under this Agreement, the Program Administrator and a Cooperator will sign a Cooperative Agreement (Attachment 1), in which Cooperators agree to carry out habitat improvements

[1] The Service and the Department may be referred to as "Agency" or "Agencies."

[2] The western yellow-billed cuckoo is designated as a Federal Candidate species. The Service has elected to not cover this species under a Candidate Conservation Agreement because it is protected as endangered under the CESA, and is covered under this Agreement through the Department's Voluntary Local Program. The Parties recognize that if western yellow-billed cuckoo is listed as threatened or endangered under the FESA in the future, they will consider amending this Agreement at that time to cover this species.

described in their Cooperative Agreement and to abide by the terms and conditions set forth in this Agreement and the Enhancement of Survival Permit. Cooperative Agreements will be reviewed by the Service and/or the Department, depending on whether the proposed Covered Species are federally or State-listed. Upon agency approval, the Program Administrator will finalize the Cooperative Agreement and issue a Certificate of Inclusion to the Cooperator. Certificates of Inclusion issued by the Program Administrator will extend incidental take coverage to the Cooperator's property (Enrolled Property). Once the Cooperator implements the provisions of the Cooperative Agreement and the Enhancement of Survival Permit, the Cooperator is authorized to incidentally take Covered Species or modify habitat to return the Enrolled Property to Baseline conditions.

This Agreement follows the Service's Safe Harbor Policy (64 **FR** 32717) and Safe Harbor Agreement regulations (64 **FR** 32706) which implement this policy. Upon approval, this Agreement will serve as the basis for the Service to issue an Enhancement of Survival Permit (Permit) under section 10(a)(1)(A) of the federal Endangered Species Act, 16 U.S.C. §1531 et.seq. (ESA). The federal permit authorizes the incidental taking of the Covered Species during habitat restoration activities, as well as routine and ongoing agricultural and ranching activities. This Agreement also follows the Department's Voluntary Local Program (VLP) regulation (California Code of Regulations (CCR), Title 14, § 786), which implements Article 3.5. Incidental Take Associated with Routine and Ongoing Activities § 2086 *et. seq*. of the California Endangered Species Act (CESA). In cooperation with the Safe Harbor Agreement, this VLP is designed to provide sufficient flexibility to maximize participation and to gain maximum wildlife benefits without compromising the economics of agricultural or ranching operations or flood risk management. Additionally, the federal and state permits authorize incidental take of Covered Species if a Cooperator chooses to return their property to Baseline conditions.

In order to approve the Permit for the Program Administrator, the Service and Department must find that: (1) the take associated with the Cooperative Agreement will be incidental to otherwise lawful activities and will be in accordance with the terms of the Safe Harbor Agreement/Voluntary Local Program; (2) the implementation of the Cooperative Agreement will provide a net conservation benefit and contribute to the recovery of Covered Species; (3) the probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any Covered Species; (4) the habitat restoration, enhancement, and management that will occur as a result of the Cooperative Agreements is expected to avoid and minimize take of Covered Species; and (5) that this Agreement and the associated Cooperative Agreements meet the criteria otherwise provided in 50. C.F.R. §§17.22(c)(2) and 17.32(c)(2).

2. RESPONSIBILITIES OF THE PARTIES AND COOPERATORS

A-Program Administrator

The Sacramento River Conservation Area Forum is the Program Administrator. The Program Administrator has the following responsibilities:

1. Hold the Federal 10(a)(1)(A) permit and State §2086 permit for this Agreement.

2. Enter into Cooperative Agreements with private landowners and issue Certificates of Inclusion upon Agency approval (Attachment 1).

3. Ensure that Baseline Habitat Worksheets (Attachment 4) have been completed by Qualified Persons. A "Qualified Person" is someone with species expertise that has been approved by the Service and/or the Department.

4. Ensure that the Service and/or the Department have approved each individual Cooperative Agreement and Baseline Habitat Worksheets prior to enrolling the Cooperator.

5. Furnish the Service and/or the Department with copies of all Cooperative Agreements and Baseline Habitat Worksheets within 2 weeks of signing.

6. Compile annual reports from Cooperators and summarize information in an annual report to the Service and the Department. The report is due by March 31 of each year. The record keeping process will document implementation of the program's management practices.

7. Ensure that triennial surveys (conducted at least once every three years) are conducted on Enrolled Properties. This report will be prepared by a Qualified Person approved by the Program Administrator and the Cooperator. The report will assess the condition of the habitats being managed under the Cooperative Agreement, and determine if beneficial activities could be modified to improve success. The Program Administrator will provide the report and results of the surveys to the Agencies.

8. Notify the Service and the Department of any living individuals or dead specimens of the Covered Species of which it becomes aware on the Enrolled Properties.

9. Inform the Service and the Department if a Cooperator (or a "neighboring landowner" who has entered into an agreement) that has provided notification that it will undertake an activity that will result in take of the Covered Species (i.e. reduce the number of Covered Species or associated habitat on the Enrolled Property) to allow for the opportunity to relocate Covered Species from the property.

10. Enforce the terms of the Cooperative Agreement.

B-Cooperators

Cooperators are landowners and/or land managers who voluntarily enter into a Cooperative Agreement with the Program Administrator to restore, enhance, and manage habitat to benefit the Covered Species. Each Cooperator has the following responsibilities:

1. Enroll their property by entering into a Cooperative Agreement with the Program Administrator.

2. Allow a Qualified Person to complete a Baseline Habitat Worksheet.

3. Carry out specific restoration, enhancement, and management activities as detailed in the Cooperative Agreement.

4. Complete an annual report that is provided to the Program Administrator by December 31 of each year.

5. Allow surveys by a Qualified Person to be conducted on their property at least once every three years to assess the general condition of the Covered Species and/or the associated habitat.

6. Notify the Program Administrator at least 90 days prior to any planned activity the Cooperator reasonably anticipates will result in take of the Covered Species on the Enrolled Property, and provide the Service and/or the Department, or other mutually agreed-upon entity access and opportunity to relocate any affected individuals of the Covered Species, if appropriate.

7. In some instances, a Cooperator may be a land manager that does not own the Enrolled Property (e.g., a farmer leasing the Enrolled Property). In such cases, Cooperators must demonstrate to the Program Administrator that they have the legal authority to enter into such agreements.

C-The Service

The Service has the following responsibilities:

1. Upon execution of the Agreement, the Service will issue to the Program Administrator an Enhancement of Survival Permit in accordance with Section 10(a)(1)(A) of the ESA.

2. Provide technical assistance to the Program Administrator and Cooperators, to the maximum extent practicable, when requested; and provide information on federal funding programs.

3. Review Cooperative Agreements and Baseline Habitat Worksheets that are proposed for federally-listed species prior to signing by the Program Administrator. Cooperative Agreement approval will be provided by the Service to the Program Administrator in writing.

4. Review annual and triennial reports and surveys provided by the Program Administrator.

D-The Department

The Department has the following responsibilities:

1. Upon execution of the Agreement, the Department will issue to the Program Administrator a permit in accordance with the CESA under the Fish and Game code § 2086(b) Voluntary Local Program.

2. Provide technical assistance to the Program Administrator and Cooperators, to the maximum extent practicable when requested; and provide information on state funding programs.

3. Review all Cooperative Agreements and Baseline Habitat Worksheets that are proposed for state-listed species prior to signing by the Program Administrator. Cooperative Agreement approval will be provided by the Department to the Program Administrator in writing.

3. DESCRIPTION OF ENROLLED PROPERTIES

The properties subject to this Agreement are shown in the attached map (Figure 1) and consist of those non-federal lands in, or adjacent to, the SRCA in the counties of Shasta, Tehama, Butte, Glenn, Colusa, Yolo, and Sutter, California. The general habitat types included in this area are riparian forest, grassland, oak and elderberry savannah, and oxbows. The Enrolled Properties are to be more precisely indicated on maps attached to the Cooperative Agreements. Current and recent land use practices on potential Enrolled Properties are likely to be varied and to include orchards, other agricultural uses, and ranching.

4. BASELINE DETERMINATION

Baseline on the Enrolled Properties will be established by completing the Baseline Habitat Worksheet (Attachment 4). This worksheet will be completed by a Qualified Person prior to signing the Cooperative Agreement. A "Qualified Person" is someone with species expertise who has been approved by the Parties. The Baseline conditions will be established not more than 18 months prior to the signing of the Cooperative Agreement. When the Service and/or Department do not directly determine the Baseline Conditions, they must review and concur with the determination before entering into an Agreement, and, if necessary, conduct a site visit.

Where possible to estimate Baseline Conditions based on recent aerial photos, or on monitoring and modeling of elderberry bushes or habitat in the area, such an estimate may be used in lieu of the survey of the Enrolled Property, provided that the Service, the Department, the Program Administrator, and the Cooperator concur.

5. MANAGEMENT ACTIVITIES

This section provides information on agricultural or ranching activities, as well as beneficial activities associated with riparian restoration or enhancement that may be covered under individual Cooperative Agreements. Each Cooperative Agreement shall specify the restoration activities to be carried out on the Enrolled Property and a timetable for implementing those activities. The Service and the Department anticipate that implementation of the beneficial activities described below will produce a net conservation benefit for the Covered Species by increasing habitat available to Covered Species for the term of the Cooperative Agreements. The Department anticipates that the implementation of the beneficial activities described below will also fully mitigate for the state-listed Covered Species.

Beneficial Activities

Because of the wide array of possible restoration and/or enhancement activities available to a Cooperator, it is not possible to list them all in this section. A summary of some possible management activities that may benefit the Covered Species is provided below. This list is not exhaustive, but serves as general guidance for the type of beneficial management activities that the Service and the Department anticipate Cooperators to implement under the Cooperative Agreements. The Service and the Department do not anticipate that Cooperators will implement all of the management activities listed below for a given Covered Species, but rather choose activities from the following list that are feasible, or implement other beneficial activities not listed below.

Valley Elderberry Longhorn Beetle

Habitat loss is the primary threat to this species (Service 1980). Beneficial activities, such as those described below, will result in the establishment of habitat for the valley elderberry longhorn beetle. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. These beneficial activities support recovery objectives specified in the *Recovery Plan for the valley elderberry longhorn beetle* (Service 1984) by restoring habitat sites within the presumed historical range of the species and managing and protecting this habitat for a minimum of 10 years.

1. Plant and maintain elderberry bushes and associated riparian plants. Providing connectivity between areas with elderberry shrubs is optimal.

2. Manage vegetation around the elderberry plants, including removal of non-native invasive species (e.g., Himalayan blackberry) as appropriate to facilitate restoration.

3. Allow for recruitment of elderberry shrubs within riparian areas.

4. Create riparian habitat that promotes sustainable elderberry shrub savannahs.

5. Ensure that application of pesticides or herbicides do not impact the species by utilizing sufficient buffer distances and safe application methods.

Giant Garter Snake

Habitat loss due to agriculture, development, and flood control activities is the primary threat to this species. Other threats include ongoing maintenance of aquatic habitats for flood control and agricultural purposes (Service 1999). Beneficial activities, such as those described below, will result in the restoration and/or enhancement of potential giant garter snake habitat, which can encourage colonization of giant garter snakes. Other beneficial activities may improve connectivity between fragmented areas of suitable habitat. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. This Agreement supports recovery objectives specified in the *Draft Recovery Plan for the Giant Garter Snake* (Service 1999) by restoring habitat sites within the presumed historical range, managing for optimal habitat conditions, and protecting habitat restoration sites for a minimum of 10 years.

1. Increase the interconnectivity of suitable wetlands and waterways (e.g., canals and ditches) to provide cover for foraging, resting, basking, and sources for prey items.

2. Eliminate ground squirrel control activities within suitable over-wintering habitat. Small mammal populations create burrows that provide over-wintering habitat and upland refugia during flood events for giant garter snakes.

3. Manage vegetation on banks of irrigation and drainage ditches, sloughs or low gradient streams to sustain appropriate perennial vegetation that provides for: foraging, resting, and basking habitat; sources for prey items; and connectivity of suitable aquatic sites.

4. Implement land management activities that benefit the giant garter snake. This could include, but is not limited to, preventing livestock from grazing extensively around suitable aquatic habitat for the giant garter snake.

Western pond turtle

Pond turtles are declining primarily due to loss of nesting habitat, loss of hatchling habitat and predation of hatchlings by nonnative predators such as bullfrogs and bass. Other threats may include ongoing maintenance of aquatic habitats for flood control. A summary of some possible management activities that may benefit this species is provided below. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. The Agreement supports recovery efforts by restoring habitat sites within the presumed historical range, managing for optimal habitat conditions, and protecting habitat restoration sites for a minimum of 10 years.

1. Develop and protect native riparian habitat, including the addition of large woody debris and basking logs in order to provide habitat complexity.

2. Avoid disturbance of upland areas adjacent to western pond turtle habitat. These upland areas are critical for hibernation and nesting (up to 210 meters). Limit OHV/ATV use near open water areas and upland areas where pond turtles may exist. Develop off-site watering sources for livestock and limit livestock grazing in upland areas adjacent to pond turtle habitat during nesting season

3. Avoid dredging ponds.

4. Maintain adequate water quality by limiting run-off. Avoid using herbicides, pesticides, and fertilizers near open water areas and upland areas where pond turtles may exist.

5. Restrict domesticated pets and other predators from areas where pond turtles are known to exist. Control bullfrogs in and around pond turtle habitat, use fencing or predator excluding wire covering on nests to exclude access by opossums and raccoons and trapping of these animals.

6. Avoid flood irrigation of upland areas near pond turtle habitat during breeding and nesting as nests may become submerged.

7. Avoid building roads between aquatic habitat and upland areas which may impede turtle migration to nesting sites. Avoid running over turtles on existing roads.

Swainson's hawk

The primary management issues that are negatively affecting Swainson's Hawks are: loss of preferred nesting habitat in mature riparian forests, loss or adverse modifications to high quality habitat to development, or conversion to incompatible crop types, and high mortality due to pesticide use on migration routes and wintering grounds (Woodbridge 1998). A summary of some possible management activities that may benefit this species is provided below. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. The Agreement supports recovery efforts by restoring habitat sites within the presumed historical range, managing for optimal habitat conditions, and protecting habitat restoration sites for a minimum of 10 years.

1. Protect and enhance trees adjacent to foraging areas (multiple fields of alfalfa, pasture, etc.) and enhance and restore riparian areas, including willows and cottonwoods.

2. Ensure the availability of suitable nesting and foraging habitat by maintaining riparian systems and groves of trees as well as lone mature trees in agricultural fields.

3. Implement Swainson's hawk friendly agricultural practices (e.g., maintain fallow lands) or grow specific crops typically used by Swainson's hawks for foraging (e.g., alfalfa and other hay crops) within a 10 mile radius of nest sites. Note: This measure does not call for converting existing natural habitat to hay crops.

4. Implement land management that provides structural and compositional diversity of grasslands (e.g. mosaic with mixed vegetation heights). Manage grasslands to provide good foraging habitat that is low in structure and density.

5. Avoid active nests during nesting season (April-September).

Bank Swallow

The single and most significant threat to this species is the direct loss of suitable habitat due to bank revetment and flood management projects. A summary of some possible management activities that may benefit this species is provided below. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. This Agreement supports recovery objectives specified in the Recovery Plan for the Bank Swallow (Schlorff, 1992) by restoring habitat sites within the presumed historical range, managing for optimal habitat conditions, and protecting habitat restoration sites for a minimum of 10 years.

1. Allow natural river meander and bank erosion to occur. Remove bank protection to allow limited meander in appropriate areas.

2. Maintain open grasslands along the river bank.

3. Maintain suitable nesting habitat in vertical banks by controlling vegetation either overhanging or growing up from a bench below the bank.

4. Avoid disturbance of nesting areas during nesting season (May-July).

5. Maintain wetlands, grasslands, and other open habitats used during migration and wintering.

Willow Flycatcher

Loss and fragmentation of riparian habitat is the primary factor affecting this species (Craig 1998). A summary of some possible management activities that may benefit this species is provided below. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. The Agreement supports recovery efforts by restoring habitat sites within the presumed historical range, managing for optimal habitat conditions, and protecting habitat restoration sites for a minimum of 10 years.

1. Develop and protect native riparian habitat with willow thickets interspersed with open spaces. Plant native willows, alders, and cottonwoods.

2. Eliminate invasive plant species such as arundo and tamarisk.

3. Exclude grazing from willow flycatcher nesting habitat during breeding season (May –August) to prevent nest disturbance and understory damage. Keep livestock from coming into physical contact with nest sites during this period.

4. Manage grazing intensity and/or location to ensure riparian deciduous shrubs are not high-lined and recruitment of young riparian shrubs occurs.

5. Limit recreational activities, particularly ATV use, within willow flycatcher nesting habitat to prevent nest disturbance and understory damage.

Western Yellow-billed Cuckoo

Degradation and loss of cottonwood-willow riparian habitat and invasion of nonnative species such as salt cedar and giant reed are the major factors affecting this species (Laymon 1998). A summary of some possible management activities that may benefit this species is provided below. Additionally, Cooperators may agree to allow research to be conducted on Enrolled Properties to obtain additional information on the species. This species does not have a conservation strategy, but management activities in this Voluntary Local Program have been developed to support its recovery.

1. Restore and maintain high-quality nesting habitats (e.g., large sites with high canopy cover and foliage volume, and moderately large and tall trees).

2. Maintain and expand dense riparian habitat with overstory, mid-canopy, understory, and ground cover of native vegetation.

3. Restore and maintain riparian corridors to link blocks of suitable nesting habitat.

4. Utilize land management activities including managed grazing during off season (October through April) to enhance plant communities that benefit this species.

5. Limit recreational activities, particularly ATV use, within yellow-billed cuckoo nesting habitat to prevent nest disturbance and understory damage.

Routine and Ongoing Agricultural and Ranching Activities

The list of routine agricultural activities provided below is not exhaustive and serves merely to provide guidance to Cooperators as to the type of activities that the Parties anticipate will be covered under this Agreement.

Routine and Ongoing Agricultural Activities: Any practices performed by a farmer or farm as incident to or in conjunction with those farming operations, including production, cultivation, growing, replanting, harvesting, preparation for market, delivery to storage or market, delivery to carriers for transport to market of any agricultural commodity (includes: viticulture, vermiculture, apiculture, horticulture, raising livestock, fish, poultry, etc.). Under no circumstance will this Agreement or Permit authorize take for the conversion of listed-species habitat to non-habitat. The Service and the Department will analyze individual Cooperative Agreements to determine what agricultural or ranching activities are appropriate for incidental take coverage after taking into account what beneficial activities are also proposed by the Cooperator.

SRCAF, the Service, and the Department recognize that entities involved in flood risk management activities (i.e., the U.S. Army Corps of Engineers, the Central Valley Flood Protection Board, the Department of Water Resources, and levee districts) often have expressed concerns when restoration or enhancement activities are completed within close proximity to flood control structures such as levees, weirs, bypasses, drains, and gates. Many of the flood risk management agencies are concerned that habitat enhancement and restoration projects could result in an increase of listed species' habitat on adjacent flood control structures, making it more costly to complete necessary repair and maintenance activities. It is the goal of the Parties to accomplish conservation activities for listed species without negatively affecting routine flood risk management activities. Therefore, this Agreement may provide incidental take coverage for minor flood risk management activities on Enrolled Properties or neighboring properties (see Section 6, Neighboring Landowner Agreements) if it is determined by the Service and/or the Department that it is appropriate to cover the activity per the policy and regulations of the SHA and VLP. Examples of minor flood risk management activities that will be considered for coverage include but are not limited to: trimming or transplanting elderberry shrubs, mowing vegetation on levees, and debris removal. The Service and the Department agree that this SHA and VLP will not be used to provide take coverage to flood risk management agencies.

6. "NEIGHBORING LANDOWNER" AGREEMENTS

The purpose of this section is to enable neighboring landowners to receive certain regulatory assurances if lands adjacent to theirs are enrolled and attract listed species that may emigrate onto

their property. It is the Service and the Department's goal to minimize any concerns that neighboring landowners may have that the actions of adjacent landowners will inadvertently encumber them. This section provides a mechanism that adjacent landowners can receive regulatory assurances even if they are not undertaking the proactive measures called for elsewhere in this program. Before entering into an agreement with a neighboring landowner, the Service and/or the Department must look at the project as a whole, and determine that the net conservation benefit expected from the original Cooperative Agreement will not be eliminated or eroded by the subsequent agreement with the neighboring landowner.

With Service and/or Department approval, neighbors who own or manage land within the program area that abuts an Enrolled Property may secure incidental take without committing to undertake any management activities described in Section 6 of this Agreement. The neighboring landowner must enter into a "Neighboring Landowner Agreement" with the Program Administrator (see Attachment 3). The neighboring landowner agrees to allow a Qualified Person to complete the Baseline Habitat Worksheet for the Covered Species (see Attachment 4). The Baseline Habitat Worksheet must be reviewed and approved by the Service and/or the Department.

Where possible to estimate Baseline Conditions based on recent aerial photos, surveys undertaken from public roadways, adjacent lands, or other similar locations, the Program Administrator may, with the concurrence of the Service and/or the Department, propose a Baseline on this basis. The neighboring landowner may either accept the proposed Baseline or have a survey taken to establish more precise Baseline Conditions at his own expense.

In addition, the neighboring landowner must agree to: allow access to the Service and/or the Department (or an entity approved by the Parties) to enter the property for monitoring purposes; and agree to notify the Service and/or Department (through the Program Administrator) at least 90 days prior to taking a property back to Baseline Conditions so that Covered Species may be relocated, if appropriate to do so.

If a Cooperator chooses to terminate a Cooperative Agreement, the Service and/or the Department will determine on a case-by-case basis whether the neighboring landowners who have entered into "Neighboring Landowner Agreements" will continue to have assurances under this Agreement. The Service and/or the Department must look at the project as a whole, and determine that the net conservation benefit continues to be realized even if the original Cooperator has terminated the Cooperative Agreement.

7. AGREEMENT AND PERMIT DURATION

The Agreement becomes effective upon issuance of the Enhancement of Survival Permit by the Service, which will be in effect for 30 years. Cooperative Agreements developed pursuant to this Agreement will be for a term of at least 10 years, but may be shorter if the Service and/or the Department determine that certain beneficial activities will result in a net conservation benefit in a shorter period of time. This Agreement and the federal and state permits may be extended by mutual consent of the Parties.

8. ASSURANCES REGARDING TAKE OF COVERED SPECIES

Provided such take is consistent with maintaining Baseline Conditions established for the Enrolled Properties, the Enhancement of Survival Permit authorizes the Program Administrator to issue Certificates of Inclusion authorizing Cooperators to take the Covered Species incidental to otherwise lawful activities in the following circumstances:

1. Implementing the beneficial activities identified in Section 5 of this Agreement.

2. Conducting routine and ongoing activities on the Enrolled Properties after the beneficial activities identified in Section 5 of this Agreement have been initiated.

3. Returning the Enrolled Properties to Baseline Conditions. No intentional lethal take of Covered Species is anticipated.

9. MODIFICATIONS

A. Modification of the Agreement. Any party may propose amendments to this Agreement, as provided in 50 C.F.R. §13.23, by providing written notice to, and obtaining the written concurrence of, the other Parties. Such notice shall include a statement of the proposed modification, the reason for it, and its expected results. If applicable, both the landowner and land manager must sign the notice. The Parties will use their best efforts to respond to proposed modifications within 60 days of receipt of such notice. Proposed modifications will become effective upon the Parties' written concurrence.

B. Termination of the Agreement. As provided for in Part 12 of the Service's Safe Harbor Policy (64 Fed. Reg. 32717), a Cooperator may terminate his/her Cooperative Agreement for circumstances beyond his or her control by giving written notice to the Program Administrator. In such circumstances, the Cooperator may return the Enrolled Property to baseline conditions, without penalties or disincentives for withdrawing participation, even if the management activities identified in Section 5 of this Agreement have not been fully implemented, provided they notify the Program Administrator as stated in Section 2.B.6 of this Agreement prior to undertaking an activity that will cause take of the Covered Species.

C. Permit Suspension or Revocation. The Service and/or the Department may suspend or revoke the permit/approval for cause in accordance with the laws and regulations in force at the time of such suspension or revocation. As provided in 50 C.F.R. 13.28(a), 50 C.F.R. §§17.22(c)(7), and 17.32(c)(7), the Service may also, after pursuing all appropriate options to avoid permit revocation, revoke the permit if continuation of permitted activities would likely jeopardize the continued existence of the Covered Species under its jurisdiction, or adversely modify those Covered Species' designated critical habitat. The Program Administrator or any Cooperator may object to any suspension or revocation of its Enhancement of Survival Permit or Cooperative Agreement pursuant to 50 C.F.R. §§ 13.27(b), and 13.28(b).

D. Baseline Adjustment. The Baseline Conditions for any Enrolled Property may, by mutual agreement of the Parties and the Cooperator, be adjusted if, during the term of the Cooperative Agreement and for reasons beyond the control of the Cooperator or as an unintended result of properly-implemented beneficial activities, the baseline habitat conditions are reduced from what they were at the time the Cooperative Agreement was negotiated. The Cooperator's Baseline will

be adjusted to reflect this by mutual agreement of the Parties.

E. Inability of the Program Administrator to Continue. If the Program Administrator is unable to perform its obligations under this Agreement, it will give written notice to the Service and the Department at least 60 days prior to ceasing to perform its obligations under the Agreement. Upon receiving such notice, the Service and Department may, at their discretion after consultation with Cooperators, either amend this Agreement and the associated permits to substitute a new Program Administrator as provided in 50 C.F.R. 13.25(b), or if a Cooperator prefers, convert any previously approved Cooperative Agreement into an individual Safe Harbor Agreement between the Cooperator and the Service and/or Department under the same terms.

F. Other Listed Species, Candidate Species, and Species of Concern. In the event that other species in the SRCA, not initially covered by this Agreement, are subsequently listed as threatened or endangered under the ESA or CESA, the Parties may consider amending the Agreement to add the newly-listed species as a Covered Species. Previously approved Cooperative Agreements may be amended to include newly-listed species as Covered Species, subject to approval by the Service and the Department. The amendment of any Cooperative Agreement will determine the Baseline for the subsequently listed species in a manner approved by the Service and the Department.

10. OTHER MEASURES

A. Remedies. No party will be liable in monetary damages for any breach of this Agreement, any performance or failure to perform an obligation under this Agreement or any other cause of action arising from this Agreement.

B. Dispute Resolution. The Parties agree to work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by all Parties.

C. Succession and Transfer. As provided in 50 C.F.R. §13.25(c), if a Cooperator transfers his or her interest in the Enrolled Property to another non-Federal entity, the Service and Department will regard the new owner or manager as having the same rights and responsibilities with respect to the Enrolled Property as the original Cooperator, if the new owner or manager agrees to become a party to the Cooperative Agreement in place of the original Cooperator.

D. Availability of Funds. Implementation of this Agreement is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any funds from the U.S. or state treasuries. The Parties acknowledge that the Service or the Department will not be required under this Agreement to expend any Federal or State agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

E. No Third-Party Beneficiaries. This Agreement does not create any new right or interest in any member of the public as a third-party beneficiary, nor will it authorize anyone not a party to this Agreement to maintain a suit for personal injuries or damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with

respect to third parties shall remain as imposed under existing law.

F. Other Laws. This Agreement and activities conducted under it are subject to all applicable federal, state, and local laws and regulations. Nothing contained in this Agreement is intended to limit the authority of the United States or the State of California to fulfill its enforcement responsibilities under applicable federal or state law.

G. Relationship to Habitat Conservation Plans and Other Conservation Instruments. Nothing in this Agreement affects the right of the Cooperator to seek to record a Conservation Easement on the Enrolled Property or seek to establish the Enrolled Property as a Preserve or Mitigation Bank.

H. Notices and Reports. Any notices and reports, including monitoring and annual reports, required by this Agreement will be delivered to the persons listed below, as appropriate:

Program Manager
Sacramento River Conservation Area Forum
2440 N. Main Street
Red Bluff, California 96080

Safe Harbor Program Coordinator
Sacramento Fish and Wildlife Office
U.S. Fish and Wildlife Service
2800 Cottage Way, W-2605
Sacramento, California 95825

Voluntary Local Program Coordinator
California Department of Fish and Game
Habitat Conservation Planning Branch
1416 Ninth Street
Sacramento, California 95814

Voluntary Local Program Coordinator
California Department of Fish and Game Region 1
601 Locust Street
Redding, California 96001

Voluntary Local Program Coordinator
California Department of Fish and Game Region 2
1701 Nimbus Road
Rancho Cordova, California 95670

Literature Cited

U.S. Fish and Wildlife Service (Service). 1980. Listing the valley elderberry longhorn beetle as a threatened species with critical habitat. **Federal Register** 45:52803-52807.

_____ 1984. Valley elderberry longhorn beetle recovery plan. Portland, Oregon. 62 pp.

_____ 1993. Endangered and threatened wildlife and plants; determination of threatened status for the giant garter snake; final rule. **Federal Register** 58(201):54053-54066.

_____. 1999. Draft recovery plan for the giant garter snake (*Thamnophis gigas*). U.S. Fish and Wildlife Service, Portland, Oregon. 192 pp.

Garrison, B. A. 1998. Bank Swallow (Riparia riparia). Riparian Bird Conservation Plan: a strategy for reversing the decline of riparian-associated birds in California. California Partners in Flight. http://www.prbo.org/calpif/htmldocs/riparian-v-2.html

Craig, Diana 1998. Willow Flycatcher (Empidonax traillii). Riparian Bird Conservation Plan: a strategy for reversing the decline of riparian-associated birds in California. California Partners in Flight. http://www.prbo.org/calpif/htmldocs/species/riparian/willow_flycatcher.htm

Woodbridge, Brian 1998. Swainson's Hawk (Buteo swainsoni). Riparian Bird Conservation Plan: a strategy for reversing the decline of riparian-associated birds in California. California Partners in Flight. http://www.prbo.org/calpif/htmldocs/species/riparian/swainson_hawk.htm

Laymon A. S. 1998. Yellow-Billed Cuckoo (Coccycus americanus). Riparian Bird Conservation Plan: a strategy for reversing the decline of riparian-associated birds in California. California Partners in Flight. http://www.prbo.org/calpif/htmldocs/species/riparian/yellow-billed_cuckoo.htm

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Safe Harbor Agreement and Voluntary Local Program to be in effect as of the date that the Service and the Department issues the permit referred to in Section 1 of this Agreement.

_____ _____

Program Manager Date
Sacramento River Conservation Area Forum

_____ _____

Field Supervisor Date
Sacramento Fish and Wildlife Office
U.S. Fish and Wildlife Service

_____ _____

Deputy Director Date
Resources Management and Policy Division
California Department of Fish and Game

Attachment 1
Cooperative Agreement

This Cooperative Agreement constitutes a written, binding contract between the parties identified in Section 1 below, and recognizes the unique and important role that private landowners in California can play in helping wildlife valued by the people of the state and of the nation. The purpose of the Cooperative Agreement is to enable land management activities beneficial to rare species to be carried out on privately owned land while minimizing the impact of such activities on the right and ability of the owner or manager to use it as he or she wishes. The terms of this Cooperative Agreement are as follows:

1. The Sacramento River Conservation Area Forum ("Program Administrator") and _____ (Cooperators) have entered into this Agreement to improve and manage native habitat for the betterment of wildlife, including the Covered Species. The Enrolled Property is delineated on the attached map (Exhibit A).

The Covered Species relevant to this Cooperative Agreement is (are):
_____valley elderberry longhorn beetle
_____giant garter snake
_____Western pond turtle
_____Swainson's hawk
_____Western yellow-billed cuckoo
_____willow flycatcher
_____bank swallow

2. The U. S. Fish and Wildlife Service (Service) has approved a Programmatic Safe Harbor Agreement and has issued an Enhancement of Survival Permit issued on [insert date of permit] and terminating [insert expiration date] to the Program Administrator that authorizes the incidental take of federally listed species covered under the safe harbor agreement for those Cooperators that have been issued a Certificate of Inclusion by the Program Administrator.

3. The California Department of Fish and Game (Department) has approved a Voluntary Local Program. Any taking of candidate, threatened, or endangered species incidental to routine and ongoing agriculture or ranching activities that occurs while the management practices contained in the SHA/VLP are followed is not prohibited for landowners participating in the Programmatic Safe Harbor Agreement and Voluntary Local Program until the year [20..].

4. The Cooperator agrees to the following:

A. The Cooperator will conduct, or allow to be conducted on the Enrolled Property activities to improve habitat for the Covered Species. A description of the beneficial activities that the Cooperator will conduct on the Enrolled Property is attached to this Cooperative Agreement (Exhibit B). The Cooperator agrees to maintain the improved habitat for a period of at least 10 years from the date of this Agreement.

B. The Cooperator will allow a Qualified Person to assess the baseline for the Covered

Species on the Enrolled Property and complete the baseline habitat worksheet (Attachment 4 of the SHA/VLP). A "Qualified Person" is someone with species expertise who has been approved by the Service and/or Department. The Program Administrator will work closely with the Service and Department to ensure that the Qualified Person is also acceptable to the Cooperator. The Service and/or the Department must review and concur with the baseline determination before approving the Cooperative Agreement. Once approved, baseline habitat worksheet will be attached to this Agreement and will constitute the baseline conditions established for the Enrolled Property. The established baseline conditions for each Covered Species will be determined within 18 months prior to the execution of the Cooperative Agreement.

C. The Cooperator agrees to comply with the following monitoring components required by the Safe Harbor Agreement/Voluntary Local Program:

(i) The Cooperator will provide a brief annual report to the Program Administrator (Exhibit C). The report will be due on December 31 of each year. The report will identify the activities that were completed to improve habitat for the Covered Species on the Enrolled Property, as well as information describing whether the activities have resulted in improvements in habitat quality. The report should also describe whether activities should be modified in some manner to increase success. The report contents will provide sufficient feedback that describes reasonably attainable interim targets and long-range goals for increasing the quantity and quality of wildlife habitat on the Enrolled Property and ultimately program-wide. The report will also notify the Program Administrator if any living or dead Covered Species were observed during the year. The Program Administrator will include the information from the Cooperator's report in a comprehensive annual report submitted to the Service and Department as required by the SHA/VLP.

(ii) Once every three years the Cooperator will allow a Qualified Person access to the Enrolled Property to conduct a survey and prepare a report that will assess the general condition of the Covered Species and/or the associated habitat. The report will describe the assessment of the condition of the habitats being managed under the Cooperative Agreement, and make recommendations as to whether the beneficial activities could be modified to improve success. The Program Administrator will include such information in the report required to be provided to the Service and Department for each Cooperative Agreement once every three years. The Program Administrator will give the Cooperator reasonable notice of these visits.

iii) The Cooperator will grant the Program Administrator (or its agents or contractors) access to the Enrolled Property to verify that the conditions of the Cooperative Agreement are being upheld, and to assess the condition of the habitats being managed under the Cooperative Agreement, and to otherwise monitor the implementation of the Cooperative Agreement. The Program Administrator will give the Cooperator reasonable notice of these visits.

D. The Cooperator will give the Program Administrator at least 90 days notice of any planned activities that the Cooperator reasonably anticipates will result in incidental take of Covered Species on the Enrolled Property. The Program Administrator will then notify the

Service and Department to give them the opportunity to rescue and relocate, if appropriate, any Covered Species from the Enrolled Property. The Cooperator will not be required to notify the Program Administrator of routine and ongoing activities that are not anticipated to result in incidental take.

E. The Cooperator agrees to notify the Program Administrator if the Cooperator decides to sell or transfer ownership or management of the Enrolled Property. The Cooperator also agrees to notify the new landowner of this Cooperative Agreement so that the new owner can become a party to it if he or she wishes.

5. In consideration of the foregoing, the Program Administrator has issued the attached Certificate of Inclusion to the Cooperator. This Certificate authorizes the Cooperator (or designees) to incidentally take Covered Species during the following activities:

A. Implementing the beneficial activities identified in Exhibit B of this Cooperative Agreement.

B. Conducting routine and ongoing ranching activities on the Enrolled Property after the beneficial activities identified in Exhibit B of this Cooperative Agreement have been initiated, and provided that such taking does not reduce the amount of occupied habitat for such Covered Species on the Enrolled property below the established baseline conditions.

C. Returning the Enrolled Property to established baseline conditions.

As used in this Cooperative Agreement, "incidental take" refers to the unintentional or unavoidable killing or injuring of Covered Species in the course of carrying out otherwise lawful activities. Nothing in this Cooperative Agreement authorizes the Cooperator to capture, collect, or deliberately kill or injure any such Covered Species.

6. The Cooperator may terminate the Cooperative Agreement for reasons beyond his/her control at any time by giving 90 days written notification to the Program Administrator, in which case the Cooperator's right to incidentally take the Covered Species under the Certificate of Inclusion will cease. So long as this Cooperative Agreement is in effect, it can be renewed, extended, or modified at any time with the approval of the Cooperator, the Program Administrator, the Service, and/or the Department.

7. The Cooperator and the Program Administrator agree with respect to liability and indemnification for injuries to persons or property arising out of this Cooperative Agreement as follows: [details may vary from agreement to agreement] Cooperator assumes no liability for injury to any employee or representative of the Program Administrator in the course of any visit to the property under this agreement. The Program Administrator shall not be liable for any damage to the property of the landowner arising from any visit to the property pursuant to this Cooperative Agreement.

8. Nothing herein affects the right of the Cooperator to seek to record a Conservation Easement on the Enrolled Property or seek to establish the Enrolled Property as a Preserve or

Mitigation Bank.

9. So long as the Service Permit and the Department Authorization and Certificate of Inclusion remain in effect, and provided the beneficial activities required by this Cooperative Agreement as identified in Exhibit B is being implemented, the Cooperator may exercise the right conferred to the Program Administrator by the Permit and Authorization, and the Cooperator's Certificate of Inclusion to incidentally take the Covered Species on the Enrolled Property.

10. This Cooperative Agreement, which constitutes a written, binding contract, shall be interpreted in accordance with the laws of the State of California. In ascertaining the intent of the parties, the Service Permit and the Department Authorization issued to the Program Administrator, referenced above and in the Certificate of Inclusion, as well as the SHA/VLP between the Program Administrator, the Service and the Department, shall be further evidence of this contract.

11. This Cooperative Agreement shall take effect upon its execution and shall remain in effect for [X] years (not to exceed the number of years remaining in the Program Administrator's permits), unless terminated earlier in accordance with Section 6.

Program Administrator:
Sacramento River Conservation Area Forum.
2440 Main Street
Red Bluff, CA 96080

_____ _____
Sacramento River Conservation Area Forum Cooperator

Name_____ Name_____
Date_____ Date_____

CERTIFICATE OF INCLUSION

This certifies that the property described as follows [DESCRIPTION], owned by [NAME OF COOPERATOR], is included within the scope of the Enhancement of Survival permit issued by the U.S. Fish and Wildlife Service on [DATE] (Permit No._____) and the Approval and Take Authorization issued by the California Department of Fish and Game on [DATE] (Take Authorization No. ____), each for a 30 year term, to the Sacramento River Conservation Area Forum under the authority of § 10(a)(1)(A) of the Endangered Species Act of 1973, as amended, and in accordance with §2086 of CESA, respectively. The Permit and Authorization allow certain activities by participating landowners as part of the Safe Harbor Agreement/Voluntary Local Program to maintain, restore, and enhance habitat for the Covered Species, while providing incidental take coverage for associated habitat enhancement and routine and ongoing ranching and agricultural activities. Pursuant to these authorizations and this Certificate, the holder of this Certificate is authorized to engage in activities on the above described property that may result in the incidental taking of such species, subject only to the terms and conditions of the Safe Harbor Agreement/Voluntary Local Program Programmatic Agreement, the Permit and Authorization, and Cooperative Agreement No. _____ entered into by the Sacramento River Conservation Area Forum and [NAME OF COOPERATOR] on [DATE].

_____valley elderberry longhorn beetle
_____giant garter snake
_____western pond turtle
_____Swainson's hawk
_____western yellow-billed cuckoo
_____willow flycatcher
_____bank swallow

All incidental take of the species listed above is subject only to the terms and conditions of the permit and the cooperative agreement entered into pursuant thereto by the Sacramento River Conservation Area Forum (Program Administrator) and [NAME OF COOPERATOR] on [DATE].

_____
Name and Title of Representative of the Sacramento
River Conservation Area Forum (Program Administrator)

Date: _____

Exhibit A

[Map of the property subject to the cooperative agreement]

Exhibit B

[Specifications for management actions to be carried out]

Exhibit C - Annual Report from Cooperator to Program Administrator

Please provide information on the following:

County _____ Date _____ Observer(s)_____

Number of acres benefiting from Agreement: _____

Species covered under the Cooperative Agreement (Covered Species):

On a separate piece of paper, briefly describe management and restoration activities that occurred during the past year that would benefit the Covered Species:

- Summary of success of the management practices covered to benefit covered species and any recommendations on how to further improve voluntary participation by farmers and ranchers:

- In what month and year were the restoration activities substantially complete? _____

- Note whether the management and restoration activities differed significantly from the activities described in Exhibit B of your Cooperative Agreement.

- Briefly describe other routine agriculture or flood risk management activities that occurred during the past year that occurred within or adjacent to habitat for the Covered Species

- Describe the condition of the Covered Species habitat that has been restored/enhanced. This should include all Covered Species habitat in Exhibit A of the Cooperative Agreement. How much habitat is in
  - Excellent condition (growing larger and denser, possibly reproducing) ____
  - Fair condition (no signs of stress, but little or no growth) ____
  - Poor condition (showing signs of stress) ____

- Provide a photograph(s) of the Covered Species habitat from pre-established photo-monitoring points. There should be enough photo-monitoring points to adequately cover the restored/enhanced area depicted in Exhibit A of the Cooperative Agreement.

- Describe any observations or signs of listed species on enrolled property: (This question applies only to the Safe Harbor Agreement.).

- Did non-native grasses or other invasive species spread, degrade or dominate portions of the native plantings, remain about the same, or decrease?

- Have you noticed a change in the types or numbers of birds or other wildlife in the restored area? If so, please describe these briefly.

- Please provide any additional relevant information.

Attachment 2

Annual Report for Safe Harbor Agreement between the U.S. Fish and Wildlife Service and Sacramento River Conservation Area Forum

Permittee's Name: Sacramento River Conservation Area Forum

Permit Tracking Number: TE-XXXXXX-0

Location: Sacramento River Conservation Area, Counties of Shasta, Tehama, Butte, Glenn, Sutter, Colusa, and Yolo, California

Agreement Approved by: Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service; California Department of Fish and Game, Habitat Conservation Planning Branch

Covered Species:
valley elderberry longhorn beetle
giant garter snake
Western pond turtle
Swainson's hawk
Western yellow-billed cuckoo
willow flycatcher
bank swallow

Report on Enrolled Properties: Provide a comprehensive list of the properties enrolled in the program since its inception including information on location, landowner, acreage, habitat types, a list of enhancement actions completed, status of enrollment, and contact information.

Report on the Monitoring Program (1-2 paragraphs): Describe in general terms the results of any surveys carried out pursuant to Section 3 of the Safe Harbor Agreement in the year covered by the report; append a copy of the report. Describe any major changes in the habitat included in the baseline or planted as part of the Cooperator's restoration plans. Describe any evidence of utilization of such habitat by the covered species. Append to this report copies of all reports submitted to the Program Administrator by Cooperators since the last annual report.

Date Annual Report is Due: On or before March 31, for the prior calendar year

Date Annual Report was Received: _____

Date Annual Report was Reviewed:_____

Signature of Reviewer:_____

Printed Name and Phone # of Reviewer_____

Report on Area wide Management and Conservation Actions (1-2 paragraphs): As necessary to supplement the monitoring reports above, summarize the extent and condition of restored native riparian vegetation on the collective enrolled properties. Describe any apparent year-to-year trends in restoration success in the region. Describe any relevant regional conditions (e.g., drought, flood) that may be required to interpret the management activities described in the appended annual reports from the Cooperators. Finally, please convey any suggestions for adaptive management of restored areas that may have emerged from the program so far.

Attachment 3
Neighboring Landowner Agreement

1. [Owner] owns land (hereafter "the Property") in XXX County, California, that is designated on the attached map and that is adjacent to land enrolled in the Programmatic Safe Harbor Agreement and Voluntary Local Program (Agreement) between the Sacramento River Conservation Area Forum and the United States Fish and Wildlife Service (hereafter "the Service") and California Department of Fish and Game (hereafter "Department"), dated [date]. The Programmatic Safe Harbor Agreement, and the permit issued by the Service, and the Department's approval of the Voluntary Local Program to the Sacramento River Conservation Area Forum in connection therewith, authorizes participating landowners who enter into cooperative agreements to restore riparian habitat on land enrolled in the program to take Covered Species incidental to agriculture production, and other lawful activities on the Enrolled Property, provided that conditions as specified in the Agreement are maintained.

2. The Sacramento River Conservation Area Forum serves as the Program Administrator of the foregoing Programmatic Safe Harbor Agreement and Voluntary Local Program, and is authorized by the Agreement to enter into Neighboring Landowner Agreements with landowners who own land adjacent to land enrolled in the Agreement. Neighboring Landowner Agreements confer upon neighboring landowners the same rights to take Covered Species incidental to routine and ongoing agricultural or ranching activities on neighboring land.

3. The Program Administrator, the Service, and the Department have determined Baseline conditions on the Property (see Attachment 4, Baseline Habitat Worksheet). So long as conditions specified in the Agreement are maintained [owner] may incidentally take those species in the course of routine and ongoing agricultural or ranching activities on the property. As used herein, "incidental" take refers to the unintentional or unavoidable killing or injuring of Covered Species in the course of carrying out routine and ongoing agricultural or ranching activities.

4. [Owner] agrees to give the Service and Department through the Program Administrator at least 90 days notice (except when precluded by emergency situations) prior to commencing any change in land use likely to reduce the number of Covered Species on the Property, and to allow the Program Administrator, the Service, or the Department the opportunity to rescue and translocate any individuals of those species from the Property to avoid their loss.

5. This Neighboring Landowner Agreement remains in effect until [date].

6. Nothing herein affects the right of [Owner] to seek to record a Conservation Easement on the Enrolled Property or seek to establish the Enrolled Property as a Preserve or Mitigation Bank.

[Owner]	Date
Sacramento River Conservation Area Forum	Date

Attachment 4
Baseline Habitat Worksheet

Protocol for Determining Baseline Habitat for Landowners Enrolling in the Sacramento River Conservation Area Forum Programmatic Safe Harbor/Voluntary Local Program

Note: this form will be turned in with the cooperative Agreement

Owner's Name_____Date_____

Evaluator's name_____

Property Name and Location_____

GPS Coordinates_____Quad Sheet_____

For each Enrolled property, pre-agreement conditions (baseline) shall be based upon a survey of the Enrolled Property, not more that 18 months prior to signing of the Cooperative Agreement, to delineate the locations of all the habitats for listed species that will be covered under the Cooperative Agreement. When the Service and/or Department do not directly determine the baseline conditions, they must review and concur with the determination before entering into an Agreement, and, if necessary, conduct a site visit.

Valley Elderberry Longhorn Beetle

This beetle is associated with elderberry shrubs (*Sambucus* spp.) in California's Central Valley during its entire life cycle. As the elderberry shrubs begin to flower in the spring, adult beetles emerge from pupation inside the wood. Exit holes made by the emerging adults are distinctive small oval openings. Often these holes are the only clue that the beetles occur in an area. The adults eat the elderberry foliage until about June when they mate and the females lay eggs in crevices in the bark. Upon hatching the larvae tunnel into the tree where they will spend 1-2 years eating the interior wood which is their sole food source. In the Central Valley the elderberry shrub is associated with riparian forests which occur along rivers and streams.

Figure 1 provides photographs of the species and associated habitat.

Figure 1: Valley Elderberry Longhorn Beetle

		
Male beetle	Exit hole	Elderberry shrub

Baseline will consist of all elderberry shrubs on the enrolled property that are 1.0 inch or greater in diameter at ground level. Please fill out the following information regarding this species:

Please provide **representative photographs** of the suitable habitat for this species that is present on the enrolled property. Photo-points should be established to be utilized for the annual report provided to the Program Administrator.

Provide a **map** of the property that depicts the location of these elderberry shrubs. Of these shrubs, approximately how many have stems that are:

- Greater than 1 inch, but less than 5 inches in diameter at ground level_____
- 5 inches in diameter or greater at ground level_____

Total number of elderberry shrubs located on the property (include shrubs that are less than one inch in diameter at ground level). _____
Have exit holes been detected on any elderberry shrubs within the enrolled property? (Yes/No)_____

If exit hole have been detected, please provide a photograph of the exit hole(s) and a general description of where the elderberry shrub is located (riparian/upland), other plant species in the vicinity (if known), density of surrounding canopy (i.e. open/dense), the approximate distance to other elderberry shrubs, and whether the shrub contains one or more exit holes.

Provide a brief description of the general management activities within the area around or near the elderberry shrubs, including timing and duration.

Giant Garter Snake

The Giant Garter Snake is highly aquatic and is found in irrigation and drainage canals/ditches, rice fields, marshes, sloughs, ponds, small lakes, and low gradient streams. They are typically absent from wooded riparian areas and large rivers. They are dormant from mid-fall to early spring, and during this dormant period this species will utilize small mammal burrows above prevailing flood elevations.

Figure 1 provides photographs of the species and its associated habitat.

Figure 1: Giant Garter Snake

		
Giant garter snake	Irrigation ditch habitat	Rice field habitat

Baseline will consist of total acreage of aquatic habitat and surrounding upland habitat within 200 feet suitable for this species. Please fill out the following information to determine baseline conditions.

Provide **representative photographs** of the aquatic features present within the enrolled property. Photo-points should be established to be utilized for the annual report provided to the Program Administrator.

Provide a **map** that depicts the suitable and non-suitable aquatic features within the enrolled property.

Provide a general description of the types of aquatic habitat present on the enrolled property (i.e. drainage canals, marshes, streams, etc.)

What is the approximate acreage of suitable aquatic habitat within the enrolled property?

What is the approximate acreage of suitable upland over-wintering habitat within the enrolled property (i.e. suitable upland habitat within 200 feet of aquatic features)?

How were the two acreage amounts (baseline) calculated (methods may include GIS, or measurements made on the ground)?

Provide a general description of the hydrology of the aquatic features. Do the features contain water year-round, or only during a portion of the year?

Provide a general description of potential prey species present (i.e. bull frog, tree frog tadpoles, or small fish species) and potential predators (i.e. adult bull frog, egrets, herons, and large fish species).

Provide a general description of the current land management activities within or near the suitable habitat for this species, including timing and duration.

Western Pond Turtle

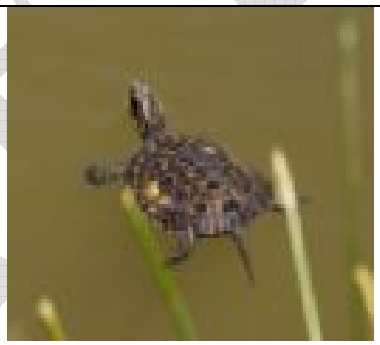
The Western Pond Turtle's habitat includes streams, large rivers, and slow-moving water. They are common in areas with large rocks, large wood, and boulders, where they go to bask in the sun. Although the turtles need to live around water bodies, they can survive drought in more arid regions by digging into the mud in dried up riverbeds. The Western Pond Turtle is an omnivore and a scavenger. Its diet consists mainly of insects, including the larvae of caddisflies, dragonflies, and nymphs. Western Pond Turtles also eat small fish, frogs, and some plants. Predators of adults include raccoons and coyotes. Young Western Pond Turtles are preyed upon by a wider range of creatures, such as raptors, weasels, large fish species, and bullfrogs. They typically breed from mid to late spring. Females deposit a clutch of up to 11 eggs in sand or loose soil, usually near a pond.

Figure 1 provides photographs of the species and representative habitat.

Figure 1: Western Pond Turtle

Adult western pond turtle

Typical pond turtle habitat



Juvenile western pond turtle

Baseline will consist of the total acreage of suitable habitat for this species, including streams, large rivers, and slow-moving water. Please fill out the following information to determine baseline, as well as provide valuable information regarding this species:

Provide **representative photographs** of the aquatic features that are present within the enrolled property. Photo points should be established to be utilized for the annual report that is to be provided to the Program Administrator.

Provide a **map** that depicts the suitable and non-suitable aquatic features within the enrolled property.

Provide a general description of the types of river, stream, or pond habitat present within the enrolled property.

What is the approximate acreage of suitable aquatic habitat within the enrolled property?

How was the acreage amount (baseline) calculated? Methods may include GIS, or measurements made on the ground.

Provide a general description of the hydrology of the aquatic features. Are there areas with shallow (< 1 inch) standing or flowing water? Are there areas with saturated mud? Do the features contain water year-round, or only during a portion of the year? What are the primary and secondary water sources?(i.e. irrigation water, springs, streams, etc.)

Provide a general description of management activities within suitable habitat for this species.

Provide a general description of any vegetation occupying the aquatic features. Do the features contain dense emergent vegetation? Is the vegetation visibly impacted by land management activities or any other disturbance?

Swainson's Hawk

Swainson's hawk is a migratory raptor that nests in the Central Valley of California, generally in scattered trees or along riparian systems adjacent to agricultural fields or pastures. Much of the potential nesting habitat is in riparian forests, although isolated and roadside trees are also used. Nest sites are generally adjacent to or within easy flying distance to alfalfa or hay fields or other habitats or agricultural crops which provide an abundant and available prey source. Preferred nest trees include valley oaks, Fremont's cottonwood, willows, sycamores, and walnuts. The following vegetation types/agricultural crops are considered optimal small mammal and insect foraging habitat for Swainson's hawks: (1) alfalfa; (2) fallow fields; (3) beet, tomato, and other low-growing row or field crops; (4) dry-land and irrigated pasture; (5) rice land (when not flooded); (6) cereal grain crops (including corn after harvest).

Figure 1 provides photographs of the species and associated habitat.

Figure 1: Swainson's Hawk

Adult Swainson's hawk

Typical foraging habitat

Swainson's hawk nest

Baseline assessment for Swainson's hawk will evaluate suitable nest trees as well as the quantity (acres) and quality (crop type or vegetative cover type) of foraging habitat. Please fill out the following information to determine baseline, as well as provide valuable information regarding this species:

Provide **representative photographs** of the vegetative cover types and features that are present within the enrolled property. Photo points should be established to be utilized for the annual report that is provided to the Program Administrator.

Provide a **map** of the enrolled property that depicts the location of confirmed Swainson's hawk nests. The nest locations may be labeled as occupied by year if known.

If possible, provide a **map** depicting the location of Swainson's hawk nests mapped within 10 miles of the enrolled property.

Provide a general description of the types of vegetation, habitats, and cultivated crops present within the enrolled property (i.e. riparian, grassland, alfalfa etc.)

What is the approximate acreage of suitable vegetation or crop habitat within the enrolled property?

What is the approximate number and type of suitable nest trees present on the enrolled property?

Provide a general description of the normal crop rotation the enrolled property has over a 10 year period.

What is the total number of Swainson's hawk nests documented on the enrolled property?

How many years have Swainson's hawk nested on the enrolled property during the last ten years (if known)?

If the enrolled property is farm land please provide a general description of current management activities including and any other relevant information.

Bank Swallow

The bank swallow occurs as a breeding species in California in widely distributed nesting colonies in alluvial soils along rivers, streams, lakes, and ocean coasts. As its scientific name, *Riparia riparia*, implies, the bank swallow is found in riparian ecosystems, particularly rivers in the larger lowland valleys of northern California. Nesting colonies are located in vertical banks or bluffs in friable soils, and these colonies can support dozens to thousands of nesting birds. Nesting habitat is particularly prone to erosion, and habitat in some areas such as the Sacramento and Feather rivers is threatened with loss by flood control and bank protection projects. Bank Swallows arrive on their breeding grounds in California beginning in late March and early April, and the bulk of breeding birds arrive in late April and early May. Birds vacate their breeding grounds as soon as juveniles begin dispersing from the colonies around late June and early July. Foraging habitats include aerial areas over lakes, ponds, rivers and streams, meadows, fields, pastures, bogs, and occasionally over forests and woodlands. During breeding, feeding sites are usually within 200 m and along the Sacramento River, adult birds are commonly observed foraging within 50-200 m of the colony site when feeding nestlings. Mead (1979a) felt that 8-10 km was the normal maximum feeding range from the colony.

Figure 1 provides a photograph of the species and representative habitat.

Figure 1: Bank Swallow

Bank Swallow Nests

Adult Bank Swallow

Bank Swallow Habitat

Baseline will consist of the total acreage of suitable river bank habitat for this species. Please fill out the following information to determine baseline, as well as provide valuable information regarding this species:

Provide **representative photographs** of the river bank features that are present within the enrolled property. Photo points should be established to be utilized for the annual report that is provided to the Program Administrator.

Provide a **map** that depicts the suitable and non-suitable river bank features within the enrolled property.

Provide a general description of the types of river bank habitat present within the enrolled property (i.e. Steep eroded, slight gravel bar, etc.). Include the vegetation above the bank (grassland, orchard, field crop, etc)

What is the approximate length of suitable river bank habitat within the enrolled property?

How was the (baseline) calculated? Methods may include GIS, or measurements made on the ground.

Provide a general description of current management activities within suitable habitat for this species.

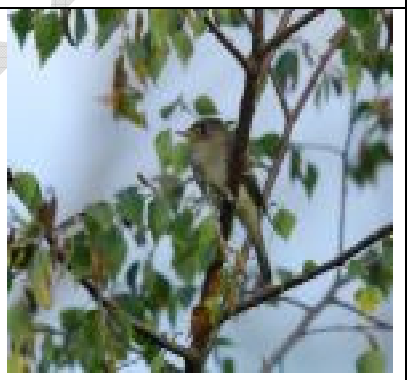
Provide a general description of the vegetation in the area. Do the features contain dense emergent vegetation? Is the vegetation visibly impacted by management activities or any other disturbance?

Willow Flycatcher

In California, breeding habitat is typically moist meadows with perennial streams; lowland riparian woodlands dominated by willows, primarily in tree form, and cottonwoods, or smaller spring-fed or boggy areas with willow or alders. Riparian deciduous shrubs or trees, such as willow or alder, are essential elements on willow flycatcher territories. Willow thickets interspersed with open space are typically utilized, while large, contiguous willow thickets are avoided. In lowland riverine habitats, contiguous willow thickets are used; possibly because the linear nature of these areas provides sufficient edge and/or the tree-like willows typically found in these areas provide sufficient openings within the willow canopy. The average height of the willows in willow flycatcher territories is about 2 meters and the bushes are often densely packed. Water or grassy areas are often interspersed among the willow patches. Most willow flycatcher territories contain open water and the remaining sites have water nearby; standing water is typical although some sites may contain moving water. A local, concentrated source of nutrients in the form of flying insects is required to meet the nutritional needs of territorial establishment and defense, mating, nest building, egg laying, brooding, and nestling rearing, generally from mid-May through mid-August

Figure 1 provides photographs of the species and its associated habitat.

Figure 1: Willow Flycatcher

		
Willow Flycatcher	Adult Willow Flycatcher	Willow Flycatcher Habitat

Baseline will consist of the total acreage of suitable riparian habitat for this species. Please fill out the following information to determine baseline, as well as provide valuable information regarding this species:

Provide **representative photographs** of the riparian features that are present within the enrolled property. Photo points should be established to be utilized for the annual report that is provided to the Program Administrator.

Provide a **map** that depicts the suitable and non-suitable riparian features within the enrolled property.

Provide a general description of the types of riparian habitat present within the enrolled property (i.e. Shrub-scrub, Willows , etc.).

What is the approximate acreage of suitable riparian habitat within the enrolled property?

How was the baseline calculated? Methods may include GIS, or measurements made on the ground.

Provide a general description of current management activities within suitable habitat for this species.

Provide a general description of the vegetation in the area. Do the features contain dense emergent vegetation? Is the vegetation visibly impacted by management activities or any other disturbance?

Western Yellow-billed Cuckoo

Western yellow-billed cuckoos require dense mature riparian habitat for nesting and brood rearing. This habitat is generally in close association with riparian woodlands with developed understory canopies. River bottom habitats near slow moving water courses are ideal nesting habitat. In the Sacramento Valley, orchards adjacent to streams have also been utilized by this species. These birds forage in dense shrubs and trees, and also may catch insects in flight. Colonization or the detection of this species in foothill habitats is not likely; however, habitat linkages of sufficient sizes and quality are increasing due to recent conservation efforts and can potentially move birds into new territories.

Figure 1 provides photographs of the species and its associated habitat.

Figure 8: Western Yellow-billed Cuckoo

		
Adult Yellow-billed Cuckoo	Typical Yellow-billed cuckoo habitat	Adult Yellow-billed Cuckoo

Baseline will consist of the total acreage of suitable riparian habitat for this species. Please fill out the following information to determine baseline, as well as provide valuable information regarding this species:

Provide **representative photographs** of the suitable habitat for this species that is present within the enrolled property. Established photo points should be used for the annual report that is provided to the Program Administrator.

Provide a **map** that depicts the suitable and non-suitable habitat types within the enrolled property.

Provide a general description of the types of vegetation and habitat types present within the enrolled property (i.e. riparian, grassland, irrigated pasture, agricultural, etc.)

What is the approximate acreage of suitable habitat within the enrolled property?

Does the property contain at least 10 acres of suitable habitat that is in one contiguous block?

How was this acreage amount calculated? Methods may include GIS, or measurements made on the ground.

Is the enrolled property located within 10 air miles from known summer locations of yellow-billed cuckoos?

Provide a general description of current management activities within suitable habitat for this species.

A Cooperator may elect to have surveys conducted on the enrolled property, using the latest accepted protocol survey methodology.

Attachment 5

Administrative Plan to Ensure Compliance of Cooperators

As the permit holder, the Program Administrator has the responsibility to assure compliance by all Cooperators and Neighboring Landowners. The procedure for monitoring Cooperators' compliance and revoking Certificates of Inclusion in the event Cooperators do not comply is set forth below:

The Program Administrator will monitor compliance of Cooperators by occasional site visits and reviewing annual reports turned in by Qualified Persons. In the event of non-compliance on the part of a Cooperator to carry out beneficial activities, implement avoidance and minimization measures, or submit the annual report, the following steps will be taken:

- Within one month of becoming aware that a Cooperator has failed to carry out beneficial activities, implement avoidance and minimization measures, or turn in required paperwork to the Program Administrator, the Program Administrator will contact the Cooperator regarding bringing the Cooperator into compliance.
- If the Cooperator has not complied within three months of initial contact, the Program Administrator will notify the Cooperator in writing regarding their non-compliance and that the process to revoke their Certificate of Inclusion will commence, if they do not come into compliance.
- Within four months of initial contact, the Service will be notified of the lack of compliance by a Cooperator in writing.
- The Service then has the opportunity to notify the Program Administrator what additional measures shall be taken to bring the Cooperator into compliance or if the Cooperator's Certificate of Inclusion shall be revoked, and Agreement will be voided.
- The Service will issue, in writing, the request to revoke the non-compliant Certificate of Inclusion. The Program Administrator shall notify the Cooperator in writing of the revocation of the Certificate of Inclusion and voided Agreement.

The Program Administrator will also monitor compliance with Neighboring Landowner Agreements (NLA) by annual site visits. In the event of non-compliance on the part of a Neighboring Landowner the Program Administrator will follow the same steps outlined above.